

w/o

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF YAVAPAI

<b>FILED</b>	
<b>DATE:</b> <u>5-4-11</u>	<b>O'Clock</b> <u>9</u> <b>.M.</b>
<b>Sandra K Markham, Clerk</b>	
<b>BY:</b> <u>RHONDI HAGEN</u>	<b>Deputy</b>

**DIVISION PRO TEM B**

**SANDRA K MARKHAM, CLERK**

**HON. WARREN R. DARROW**

**BY: R. Hagen, Deputy Clerk**

**CASE NO. V1300CR201080049**

**DATE: May 4, 2011**

**TITLE:**  
**STATE OF ARIZONA,**

**COUNSEL:**  
Yavapai County Attorney  
By Sheila Polk  
Bill Hughes  
(Via OnBase)  
(For Plaintiff)

(Plaintiff)

v.

**JAMES ARTHUR RAY,**

Thomas K. Kelly  
(Via Electronic Mail)  
(For Defendant)

(Defendant)

and  
Luis Li/Brad Brian/Truc Do/Miriam Seifter  
**MUNGER TOLLES & OLSON LLP**  
(Via Electronic Mail)  
(For Defendant *Pro Hac Vice*)

**HEARING ON:**  
**JURY TRIAL – DAY 37**

**NATURE OF PROCEEDINGS**

**COURT REPORTER**  
Mina Hunt

**START TIME: 8:45 a.m.**

**APPEARANCES:**

Sheila Polk, Counsel for State  
Bill Hughes, Co-Counsel for State  
Detective Ross Diskin, Case Agent  
James Arthur Ray, Defendant  
Tom Kelly, Counsel for Defendant  
Luis Li, *Pro Hac Vice* Counsel For Defendant  
Truc Do, *Pro Hac Vice* Counsel For Defendant

The Jury is not present.

The Court advises that Juror #9 has been excused. Counsel acknowledge the excusal.

The Court further advises that due to Juror #17's personal issue, **IT IS ORDERED excusing** Juror #17. The Jury Commissioner and/or the Bailiff are directed to ensure that both of these Jurors understand that the admonition remains in effect until conclusion of the trial.

The Court and Counsel discuss scheduling, specifically with regard to remaining witnesses.

Counsel for State moves to admit Exhibits 993, 994 and 995, redacted JRI Client Files of Liz Neumann, James Shore and Kirby Brown. Discussion ensues. There being an objection by Counsel for Defendant, the Court reviews the exhibits and **IT IS ORDERED** taking the issue under consideration.

~~~Recess~~~

At 9:30 a.m. the trial reconvenes with all previously appearing parties and the Jury present.

Detective Diskin, previously sworn, resumes the witness stand for further testimony.

Exhibits 985, 986, 987, 988 and 989 are offered and admitted for demonstrative purposes only. IT IS ORDERED that Counsel for Defendant submit a photograph of each item of physical evidence admitted.

The Jury is admonished and excused for a recess.

~~~ Recess~~~

At 10:57 a.m. the trial reconvenes with all previously appearing parties and the Jury present.

Detective Diskin resumes the witness stand for further testimony.

The Jury is admonished, excused for the noon recess and leaves the courtroom.

Counsel for State states objections regarding discovery, Defense Counsel's use of certain language during cross examination and references made by Defense Counsel regarding Mr. Haddow. Argument ensues. The Court states the law contemplates there will not be surprise at trial. The Court will look at any proposed jury instruction presented. Defense Counsel reasserts the motion for a jury instruction regarding a *Brady* violation. The Court previously ruled there could be cross examination in this area due to the late disclosure. The Court takes the noon recess.

~~~Noon Recess~~~

At 1:17 p.m. the trial reconvenes with all previously appearing parties present. The Jury is not present.

The Court addresses the late disclosure issues raised prior to the noon recess. The Court leaves the matter as it stands at this point. The Court further states that with the objection regarding the listing which had to do with mechanics of a person being on or taken off a list, there is no context now.

In response to the Court's inquiry whether or not Defendant still requests a mistrial, Defense Counsel states it does.

~~~Recess~~~

At 1:38 p.m. the trial reconvenes with all previously appearing parties and the Jury present.

Detective Diskin resumes the witness stand for further testimony.

Exhibit 1004 is offered and admitted into evidence without objection.

Exhibit 2002 is offered and admitted into evidence without objection.

The Court and Counsel conduct a sidebar discussion on the record.

Defense Counsel objects to Exhibit 794 following Counsel for State asking the witness to identify it. IT IS ORDERED sustaining the objection.

The Jury is admonished, excused for a recess and leaves the courtroom.

The Court and Counsel discuss Defense's objection regarding the form of questions posed to the witness.

Counsel for State readdresses Exhibit 794. The Court finds the exhibit is hearsay.

~~~Recess~~~

At 3:12 p.m. the trial reconvenes with all previously appearing parties and the Jury present.

Detective Diskin resumes the witness stand for further testimony.

Exhibits 992 and 297 are offered and admitted into evidence without objection.

The Court and Counsel conduct a sidebar discussion on the record.

Witness testimony continues.

The Court and Counsel conduct a sidebar discussion on the record.

The Court directs the Clerk to file the one-page typewritten untitled document submitted by Defendant this date.

Questions for the witness are submitted by the Jury, discussed at sidebar on the record and are asked and answered.

The witness is excused and returns to Counsel Table.

Steven Michael Page is sworn and testifies.

Exhibits 342, 343 and 344 are offered and admitted into evidence without objection.

Counsel for Defendant stipulates as to the accuracy of the measurements taken. Counsel for State and the Court accept the stipulation.

The witness is advised of the Rule of exclusion of witnesses admonished and excused, subject to recall, and leaves the courtroom.

The Jury is admonished and excused for the day.

The Court stands adjourned for the day.

END TIME: 4:58 p.m.

cc: Gallagher & Kennedy, P.C., Counsel for Shore Family (e)  
Murphy, Schmitt, Hathaway & Wilson, PLLC, Co-Counsel for Brown Family (e)  
Stone & Magnanini, Co-Counsel Brown Family (e)  
Aspey, Watkins & Diesel, PLLC, Counsel for Neuman Family (e)  
Steptoe & Johnson, Counsel for KPNX Broadcasting Company, TruTV and In Session (e)  
Perkins, Coie, Brown & Bain, Counsel KTVK-TV (e)  
Division PTB (e)  
Victim Services (e)  
Court Administration  
Customer Service Supervisor, Camp Verde Superior Court  
Jury Commissioner